

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TIMOTHY JOSEPH CARROLL,

Plaintiff,

vs.

CHRIS LUEBE, et al.,

Defendants.

8:21-CV-33

ORDER

The Court entered a memorandum and order on November 8, 2021, granting the defendants' motion to dismiss and dismissing the plaintiff's complaint for failure to state a claim upon which relief can be granted. [Filing 55](#). However, on its own motion, the Court gave the plaintiff until December 1 to file an amended complaint. [Filing 55 at 9](#). At the plaintiff's request, [filing 56](#), the Court extended that time until December 30, [filing 57](#).

That date, too, has now passed, and the plaintiff has not filed an amended complaint. In its original memorandum and order, the Court cautioned the plaintiff that "[i]f an amended complaint is not filed, judgment will be entered without further notice." [Filing 55 at 9](#). Nor were the requirements for the amended complaint particularly onerous: the plaintiff was simply directed to *identify* a specific defendant who had been on notice that the plaintiff faced a substantial risk of harm. *See* [filing 55 at 9 n.4](#).

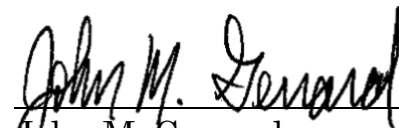
The Court was not required to afford the plaintiff *any* leave to amend his complaint, in the absence of a proper motion for leave to amend. *See* [United States v. Mask of Ka-Nefer-Nefer](#), 752 F.3d 737, 742 (8th Cir. 2014); *see also* [U.S. ex rel. Raynor v. Nat'l Rural Utilities Co-op. Fin., Corp.](#), 690 F.3d 951, 958

(8th Cir. 2012). The Court is not required to wait indefinitely for the plaintiff to exercise that privilege. Accordingly,

IT IS ORDERED that a separate judgment will be entered.

Dated this 10th day of January, 2022.

BY THE COURT:



John M. Gerrard
United States District Judge